

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[DOCKET NO. 88-12]

DESIGNATION OF OFFICE TO RECEIVE PETITIONS
FOR REVIEW OF AGENCY ORDERS PURSUANT TO
PUB. L. NO. 100-236, 101 Stat. 1731 (1988)

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This rule designates the office and officer who must receive petitions for review under 28 U.S.C. 2112(a), as amended by Pub. L. No. 100-236, 10 Stat. 1731 (1988). The Commission designates the Office of General Counsel and the General Counsel.

EFFECTIVE DATE: (Upon publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT:

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Office of the General Counsel
Federal Maritime Commission
Washington, D.C. 20573
(202) 523-5740

SUPPLEMENTARY INFORMATION:

On January 8, 1988, Congress enacted Pub. L. No. 100-236, 101 Stat. 1731 (1988), which amends 28 U.S.C. 2112(a) governing the selection of the appropriate court when petitions for review of agency orders are filed in two or more courts of appeal. The amendments to 28 U.S.C. 2112(a) are intended to replace, in part, the prior method of determining the proper court, the so-called "first to file"

rule, and the resulting practice of the "race to the courthouse" when agency orders were issued. S. Rep. No. 263, 100th Cong., 1st. Sess. 1, reprinted in 1988 U.S. Code Cong. & Admin. News 3198. The amendments take effect 180 days after the date of enactment, July 6, 1988. Pub. L. 100-236, sec. 3, 101 Stat. 1731, 1732 (1988).

As amended, 28 U.S.C. 2112(a)(2) requires each agency to designate by rule the office and the officer who must receive petitions for review. The Commission designates the Office of General Counsel and the General Counsel and amends its Rules of Practice and Procedure at 46 CFR 502.2(b) to reflect those designations.

Finally, because this amendment to the Commission's Rules of Practice and Procedure has no effect on the substantive rights of parties and is a procedure specifically required by statute, public rulemaking procedure may be dispensed with pursuant to 5 U.S.C. 553(b)(A) and the amendment may become effective upon publication, pursuant to 5 U.S.C. 553(d)(3).

The Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291, 46 FR 12193, February 27, 1981, because it will not result in:

(1) An annual effect on the economy of \$100 million or more;

(2) A major increase in cost or process for consumers, individual industries, Federal, State or local government agencies; or geographic regions; or,

(3) Significant adverse effect on competition, employment, investment productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Acting Chairman of the Federal Maritime Commission certifies pursuant to section 604(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jurisdictions.

List of Subjects in 46 CFR Part 5:

Administrative practice and procedure.

THEREFORE, pursuant to 5 U.S.C. 553 and 28 U.S.C. 2112(a)(2), Part 502 of Title 46, Code of Federal Regulations, is amended as follows:

1. The Authority Citation for Part 502 is revised to read as follows:

AUTHORITY: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707-1711, 1713-1716; and E.O. 11222 of May 8, 1965 (30 FR 6469).

2. In section 502.2, paragraph (b) is revised to read as follows:

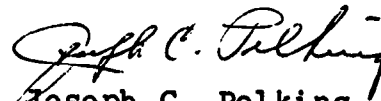
Sec. 502.2 Filing of documents; hours; mailing address.

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(b) Except for exhibits filed pursuant to section 502.118(b)(4) and petitions for review of final agency orders served on the Commission pursuant to 28 U.S.C. 2112(a), all documents required to be filed in, and correspondence relating to proceedings governed by this part should be addressed to "Secretary, Federal Maritime Commission, Washington, DC 20573-0001." Petitions for review of final agency orders served on the Commission pursuant to 28 U.S.C. 2112(a) shall be addressed to "General Counsel, Office of the General Counsel, Federal Maritime Commission, Washington, D.C. 20573-0001."

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By the Commission.


Joseph C. Polking
Secretary